

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6214 OF 2005

Karmaveer Bhaurao Patil Nagari
Coop.Credit Society Ltd. .. Petitioner
Versus
Shri Rajendra Jethalal Gajjar .. Respondent

Mr.N.J.Patil for petitioner
Mr.Ashutosh Kulkarni for respondent.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 19th January 2006.

P.C.

. Heard Mr.Patil for petitioner and
Mr.Kulkarni for respondent. Perused the

application preferred by petitioner to recall "NO W.S" order and allow written statement to be tendered on the record of the suit. The court below has observed that pendency of settlement talks is no ground to grant extension of time to file written statement. In my view, no general principle can be held down of such nature. Ultimately, everything depends upon facts of each case and if it can be said that the defendant was not careless or negligent, then by imposing appropriate conditions and compensating the plaintiff, written statement can be taken on record. In the peculiar facts of this case, trial court should have exercised its discretion and extended time to file written statement.

2. Mr.Patil states that written statement is ready and affirmed. The trial court to accept the same upon payment of cost quantified at Rs.2000/- condition precedent and to be tendered within a period of two weeks from the date of

receipt of copy of this order. Upon proof of cost being paid, the written statement will be taken on record and trial court to then proceed in accordance with law. Petition is thus allowed. Impugned order stands set aside and substituted as above. Cost to be paid in trial court.

(S.C.DHARMADHIKARI, J)